

REMARKS

This Response is submitted in reply to the Office Action dated January 29, 2008. Claims 1 to 15, 17 to 22, and 24 to 29 are pending. Claims 1, 14, 17, and 26 are in independent form. No claims are being amended in this response. A Petition for a One Month Extension of Time to respond to the Office Action is submitted herewith. A Supplemental Information Disclosure Statement is also submitted herewith. Please charge Deposit Account No. 02-1818 for any fees due.

The Office Action once again rejected independent Claims 1, 14, and 17 under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,902,983 to Crevelt et al. (*Crevelt*). Applicants disagree and traverse this rejection.

This application was previously on appeal. Applicants' Pre-Appeal Brief Request for Review, filed August 28, 2007, clearly explained why Claims 1, 14, and 17 as presently presented were patentable over *Crevelt*. The Office's Notice of Panel Decision from Pre-Appeal Brief Review dated November 7, 2007, clearly indicated that the rejection of Claims 1, 14, and 17 should be withdrawn.

More specifically, in the March 28, 2007 Office Action, the Examiner presented certain arguments with respect to Claims 1, 14, and 17. In Applicants' Pre-Appeal Brief Request for Review, each of these arguments was addressed. In the Office's Notice of Panel Decision from Pre-Appeal Brief Review, the Office appeared to agree with Applicants' response to these arguments and reopened prosecution. In the current Office Action, the Examiner is presenting arguments that are identical to the arguments presented in the March 28, 2007 Office Action. In fact, the current Office Action both acknowledges that the Pre-Appeal Brief Request arguments were "found persuasive" (Office Action, page 2) and appears to deem the same arguments "not persuasive" (Office Action, page 6). This position is wholly improper and any rejections based on such a position must be withdrawn.

The Office Action rejected independent Claims 26-29 under 35 U.S.C. § 102(b) as being anticipated by, or under 35 U.S.C. § 103(a) as being obvious over, *Crevelt*. Applicants disagree and traverse.

In the March 28, 2007 Office Action, the Examiner presented certain arguments with respect to Claim 26. In Applicants' Pre-Appeal Brief Request for Review, these

arguments were addressed. In the Office's Notice of Panel Decision from Pre-Appeal Brief Review, the Office agreed with Applicants' response to these arguments and reopened prosecution. In the current Office Action, the Examiner appears to be presenting arguments that are substantially identical to the arguments presented in the March 28, 2007 Office Action. The only change in the Examiner's argument is the addition of the following:

Regarding the limitation of "receiving, at a second processor of the gaming device, a response from the remote fund repository without direct communication between the first processor and the second processor," it would have been obvious for a player to request fund[s] directly from his or her bank without first contacting or getting approval from the casino thus provid[ing] the player more freedom and control over his/her account and speed up the game preparation process. (Office Action, page 6)

Applicants respectfully traverse this rejection. First, the Examiner offers no evidence of this assertion of obviousness. "[A] patent composed of several elements is not proved obvious merely by demonstrating that each of its elements was, independently, known in the prior art." *KSR Inter. Co. v. Teleflex, Inc.*, 127 S. Ct. 1727, 1732, 82 USPQ2d 1385, 1389 (2007). The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, and not based on Appellant's disclosure. *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991). It is "impermissible to use the claimed invention as an instruction manual or 'template' to piece together the teachings of the prior art so that the claimed invention is rendered obvious." *In re Fritch*, 23 U.S.P.Q.2d 1780, 1784 (Fed. Cir. 1992). "A factfinder should be aware, of course, of the distortion caused by hindsight bias and must be cautious of arguments relying on *ex post* reasoning." *KSR*, 127 S. Ct. at 1737. "One cannot use hindsight reconstruction to pick and choose among isolated disclosures in the prior art to deprecate the claimed invention" *In re Fine*, 837 F.2d 1071 (Fed. Cir. 1988). The Examiner's statement that it would have been obvious is not a sufficient basis to reject these claims.

In addition, the Examiner's statement does not address the claim language. The claim recites "receiving, at a second processor of the gaming device, a response from

the remote fund repository without direct communication between the first processor and the second processor.” Even if it would have been obvious for “a player to request fund[s] directly from his or her bank without first contacting or getting approval from the casino,” such a fact does not teach or suggest “receiving, at a second processor of the gaming device, a response from the remote fund repository without direct communication between the first processor and the second processor” as claimed. This rejection must be withdrawn.

Applicants therefore respectfully submit that each of the pending independent Claims, as well as each Claim that depends from those independent Claims, is patentably distinguished from *Crevett*.

APPLICANTS RESPECTFULLY REQUEST THAT THE EXAMINER EXAMINE THIS APPLICATION IN ACCORDANCE WITH THE EXAMINATION RULES. IF THIS APPLICATION IS NOT EXAMINED IN ACCORDANCE WITH THE EXAMINATION RULES, APPLICANTS WILL BE FORCED TO FILE ANOTHER APPEAL AND TO BRING THIS APPLICATION TO THE ATTENTION OF THE COMMISSIONER'S OFFICE.

An earnest endeavor has been made to place this application in condition for formal allowance and in the absence of more pertinent art such action is courteously solicited. If the Examiner has any questions regarding this Response, applicant respectfully requests that the Examiner contact the undersigned.

Respectfully submitted,
BELL, BOYD & LLOYD LLP

BY



Adam H. Masia
Reg. No. 35,602
Customer No. 29159

Dated: May 28, 2008